

ALBERTA SECURITIES COMMISSION

NOTICE OF APPLICATION

Citation: Re FELGATE, Nicholas John, 2018 ABASC 42

**Date: 20180307
Docket: ENF-011473**

To: Nicholas John Felgate (the **Respondent**)

NOTICE:

An application will be made to the Alberta Securities Commission (**Commission**) by Litigation Counsel of the Commission (**Staff**) on **Thursday, March 15, 2018, at 2:00 p.m.** pursuant to sections 33 of 198 of the *Securities Act* RSA 2000, c S-4, as amended (**Act**) to consider whether it is in the public interest to extend the Interim Cease Trade Order granted in this matter on March 2, 2018 until any proceeding arising from the investigations and initiated pursuant to the Act, including a trial in respect of an offence, is finally determined or otherwise concluded.

GROUND FOR APPLICATION:

In support of the application, Staff will rely on grounds that include the following:

1. The Respondent is not a registrant under the Act;
2. The Respondent has traded in securities without registration to Alberta investors;
3. Trades or acts in furtherance of trades, and distributions of securities in the Respondent's personal capacity to Alberta investors by the Respondent, have occurred as recently as February 16, 2018;
4. *Prima facie*, the Respondent has perpetrated a fraud:
 - 4.1 On February 16, 2018, the Respondent accepted approximately \$379,719.51 from a vulnerable senior citizen in exchange for a promissory note;
 - 4.2 The Respondent then used \$188,344.82 of the \$379,719.51 for personal uses, including payments to The Art of Music at The Mirage in Las Vegas and American Classic Motors Inc. in Pennsylvania. He also transferred \$150,000 to his personal account at another bank;
 - 4.3 The Respondent subsequently accompanied the senior citizen to her bank to liquidate her investment account and transfer those monies to him, also purportedly in exchange for an investment;

5. The Respondent is a threat to the integrity of the capital market in Alberta and its investing public, warranting protective action in the public interest; and
6. The threat is extant, making the length of time required to conduct a trial in respect of an offence and to render a decision, prejudicial to the public interest.

EVIDENCE IN SUPPORT OF APPLICATION:

In support of this application, Staff is relying upon the affidavits of Shawn Taylor sworn February 27, 2018, March 1, 2018 and March 7, 2018 and filed with the Commission; and such further and other evidence as Staff may adduce and the Commission may permit.

AUTHORITY FOR MOTION:

Sections 33 and 198 of the *Securities Act*, RSA 2000, c S-4.

LOCATION:

The application will be made at the offices of the Commission, in a hearing room located on the 5th Floor, 250 – 5 Street SW, Calgary, Alberta, T2P 0R4. Contact Jayne Lewis, Registrar of the Commission, by telephone at 403.294.4277, email at registrar@asc.ca, or facsimile at 403.297.4486 for further information.

Calgary, Alberta, March 7, 2018.) ALBERTA SECURITIES COMMISSION
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) “original signed by”
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) Kelli McAllister
) Litigation Counsel

TO: The Registrar
AND TO: Nicholas John Felgate